

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RONALD GRINBLAT,

Plaintiff,

-against-

TOWN OF SOUTHAMPTON,

Defendant.
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ORDER
14-CV-0615

APPEARANCES

For Plaintiff: Joseph A. Solow, Esq.
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Suite 400
Hauppauge, New York 11788

For Defendant: Felicia Gross, Esq.
John M. Shields, Esq.
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Smithtown, New York 11787

SEYBERT, District Judge:

The Court is in receipt of Plaintiff's letter motion seeking leave to file a second motion in limine regarding Defendant's real-estate appraiser's report, which Plaintiff argues relies on "prejudicially objectionable and excludable hearsay." (Pl. Ltr., ECF No. 129.) To date, Defendant has not filed a response. For the following reasons, Plaintiff's letter motion is DENIED.

The Court previously scheduled trial to commence on November 12, 2020. (See Min. Entry, ECF No. 112.) At that time, the Court set a schedule for pre-trial briefing (see Oct. 29, 2020

Elec. Scheduling Order), and the parties filed motions in limine, which the Court addressed in an oral ruling (see Min. Entry, ECF No. 122.) However, after jury selection, the Court adjourned sine die the November 16, 2020 trial date for reasons related to the COVID-19 pandemic. (Nov. 13, 2020 Elec. Order.) At a status conference held on March 11, 2021, the Court rescheduled jury selection for June 28, 2021. (Min. Entry, ECF No. 128.)

Plaintiff filed the present letter motion seven months after the deadline for filing pre-trial motions. "That the motion in limine is untimely is reason alone to deny it." Kokoska v. Carroll, No. 12-CV-1111, 2015 WL 1004303, at *1 (D. Conn. Mar. 6, 2015); see also Lupe v. Shinseki, No. 10-CV-0198, 2013 WL 592669, at *5 (N.D.N.Y. Feb. 14, 2013) (denying motion in limine as untimely). The parties were given an opportunity to raise, and in fact raised, issues regarding the real-estate appraiser reports, including hearsay objections, in pre-trial briefing in October 2020. (See, e.g., Def. Mot. in Limine, ECF No. 114, at 5-13 (challenging admissibility of Plaintiff's real-estate appraiser's reports).) Plaintiff declined the opportunity to raise any issues with Defendant's real-estate appraiser's report at that time; as a result, "Defendant[], and the Court, relied -- and had every right to rely -- on the representations Plaintiff made . . . that this evidence was not in dispute." Kokoska, 2015 WL 1004303, at *1. Accordingly, Plaintiff's request to raise these issues on the

proverbial eve of trial is DENIED. However, Plaintiff is not precluded from raising any objection to Defendant's real-estate appraiser's reports during witness examination, i.e., nothing in this Court's Order precludes Plaintiff from asserting the arguments raised in his letter motion during trial. Lupe, 2013 WL 592669, at *5.

Further, THE PARTIES ARE ON NOTICE: Absent a compelling showing by no later than June 18, 2021, the previously submitted witness list, requests to charge (ECF No. 120), verdict forms (ECF No. 134), and jury questions (ECF Nos. 118, 121) shall be used by the Court for the rescheduled trial commencing on June 28, 2021. To the extent the parties emailed certain pre-trial submissions to the Court's law clerk, rather than filing them to the docket, the parties are directed to file them to the docket by no later than June 18, 2021.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: June 14, 2021
Central Islip, New York